

Equal Employment Opportunity Comm.

§ 1635.2

employee, member of a labor organization, or participant in an apprenticeship program. For example, this part would not apply to:

(1) A medical examination of an individual for the purpose of diagnosis and treatment unrelated to employment, which is conducted by a health care professional at the hospital or other health care facility where the individual is an employee; or

(2) Activities of a covered entity carried on in its capacity as a law enforcement agency investigating criminal conduct, even where the subject of the investigation is an employee of the covered entity.

§ 1635.2 Definitions—general.

(a) *Commission* means the Equal Employment Opportunity Commission, as established by section 705 of the Civil Rights Act of 1964, 42 U.S.C. 2000e-4.

(b) *Covered Entity* means an employer, employing office, employment agency, labor organization, or joint labor-management committee.

(c) *Employee* means an individual employed by a covered entity, as well as an applicant for employment and a former employee. An employee, including an applicant for employment and a former employee, is:

(1) As defined by section 701 of the Civil Rights Act of 1964, 42 U.S.C. 2000e, an individual employed by a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year and any agent of such a person;

(2) As defined by section 304(a) of the Government Employee Rights Act, 42 U.S.C. 2000e-16c(a), a person chosen or appointed by an individual elected to public office by a State or political subdivision of a State to serve as part of the personal staff of the elected official, to serve the elected official on a policy-making level, or to serve the elected official as the immediate advisor on the exercise of the elected official's constitutional or legal powers.

(3) As defined by section 101 of the Congressional Accountability Act, 2 U.S.C. 1301, any employee of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Po-

lice, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, or the Office of Technology Assessment;

(4) As defined by, and subject to the limitations in, section 2(a) of the Presidential and Executive Office Accountability Act, 3 U.S.C. 411(c), any employee of the executive branch not otherwise covered by section 717 of the Civil Rights Act of 1964, 42 U.S.C. 2000e-16, section 15 of the Age Discrimination in Employment Act of 1967, 29 U.S.C. 633a, or section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, whether appointed by the President or any other appointing authority in the executive branch, including an employee of the Executive Office of the President;

(5) As defined by, and subject to the limitations in, section 717 of the Civil Rights Act of 1964, 42 U.S.C. 2000e-16, and regulations of the Equal Employment Opportunity Commission at 29 CFR 1614.103, an employee of a federal executive agency, the United States Postal Service and the Postal Rate Commission, the Tennessee Valley Authority, the National Oceanic and Atmospheric Administration Commissioned Corps, the Government Printing Office, and the Smithsonian Institution; an employee of the federal judicial branch having a position in the competitive service; and an employee of the Library of Congress.

(d) *Employer* means any person that employs an employee defined in § 1635.2(c) of this part, and any agent of such person, except that, as limited by section 701(b)(1) and (2) of the Civil Rights Act of 1964, 42 U.S.C. 2000e(b)(1) and (2), an employer does not include an Indian tribe, or a bona fide private club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(e) *Employing office* is defined in the Congressional Accountability Act, 2 U.S.C. 1301(9), to mean the personal office of a Member of the House of Representatives or of a Senator; a committee of the House of Representatives or the Senate or a joint committee; any other office headed by a person with the final authority to appoint,

hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(f) *Employment agency* is defined in 42 U.S.C. 2000e(c) to mean any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person.

(g) *Joint labor-management committee* is defined as an entity that controls apprenticeship or other training or retraining programs, including on-the-job training programs.

(h) *Labor organization* is defined at 42 U.S.C. 2000e(d) to mean an organization with fifteen or more members engaged in an industry affecting commerce, and any agent of such an organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(i) *Member* includes, with respect to a labor organization, an applicant for membership.

(j) *Person* is defined at 42 U.S.C. 2000e(a) to mean one or more individuals, governments, governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, or receivers.

(k) *State* is defined at 42 U.S.C. 2000e(i) and includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*).

§ 1635.3 Definitions specific to GINA.

(a) *Family member* means with respect to any individual:

(1) A person who is a dependent of that individual as the result of marriage, birth, adoption, or placement for adoption; or

(2) A first-degree, second-degree, third-degree, or fourth-degree relative of the individual, or of a dependent of the individual as defined in § 1635.3(a)(1).

(i) First-degree relatives include an individual's parents, siblings, and children.

(ii) Second-degree relatives include an individual's grandparents, grandchildren, uncles, aunts, nephews, nieces, and half-siblings.

(iii) Third-degree relatives include an individual's great-grandparents, great grandchildren, great uncles/aunts, and first cousins.

(iv) Fourth-degree relatives include an individual's great-great-grandparents, great-great-grandchildren, and first cousins once-removed (i.e., the children of the individual's first cousins).

(b) *Family medical history.* Family medical history means information about the manifestation of disease or disorder in family members of the individual.

(c) *Genetic information.* (1) Genetic information means information about:

(i) An individual's genetic tests;

(ii) The genetic tests of that individual's family members;

(iii) The manifestation of disease or disorder in family members of the individual (family medical history);

(iv) An individual's request for, or receipt of, genetic services, or the participation in clinical research that includes genetic services by the individual or a family member of the individual; or

(v) The genetic information of a fetus carried by an individual or by a pregnant woman who is a family member of the individual and the genetic information of any embryo legally held by the individual or family member using an assisted reproductive technology.

(2) Genetic information does not include information about the sex or age of the individual, the sex or age of family members, or information about the